

NOTICE OF PROPOSED ACTION

FOR ADOPTION OF REGULATIONS TO APPROVE TECHNICAL ASSISTANCE PROVIDERS AND CERTIFIERS FOR THE CALIFORNIA CLIMATE ACTION REGISTRY

Docket No. 03-QCTA-1
April 2004

The California Energy Commission ("Commission") proposes to adopt new regulations establishing a screening and evaluation process for those firms that wish to act as certifiers or technical assistance providers for California Climate Action Registry participants. The proposed actions are taken under the authority of sections 25213 and 25218(e) of the Public Resources Code. These regulations would implement, interpret, and make specific several provisions of Health and Safety Code section 42870.

NOTICE THAT A PUBLIC HEARING IS SCHEDULED:

The date set for the adoption of regulations at a public hearing is as follows:

Commission Business Meeting
June 2, 2004
California Energy Commission
Hearing Room A
1516 9th Street
Sacramento, CA 95814

Hearing Room A is wheelchair-accessible.

ORAL AND WRITTEN STATEMENTS

Interested persons may present oral and written statements, arguments, or contentions regarding the proposed regulations at the hearing, or may submit written comments to the Commission for consideration on or prior to June 2, 2004 by mailing them to:

Docket Unit
California Energy Commission
Docket No. 03-QCTA-1
1516 9th Street, MS-4
Sacramento, CA 95814

Or e-mailing them to: DOCKET@energy.state.ca.us
Or faxing them to Dockets at (916) 654-4354

COPIES OF THE INITIAL STATEMENT OF REASONS AND THE TEXT

The Commission has prepared an initial statement of reasons for the proposed regulations. To obtain a copy of the initial statement of reasons or the express terms of the proposed regulations, please contact Jeff Wilson at (916) 657-4774 or by e-mail at jewilson@energy.state.ca.us. Additionally, the Commission has available all the information upon which the proposed regulations are based; to obtain copies, please contact the Docket Office at the above address or by calling (916) 654-5076.

INTERNET ACCESS

The Commission's website will contain materials regarding this rulemaking proceeding. It can be accessed at the following address:
http://www.energy.ca.gov/global_climate_change/registry/index.html

COPY OF THE FINAL STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the final statement of reasons by contacting Jeff Wilson at (916) 657-4774 or by e-mail at jewilson@energy.state.ca.us.

POSSIBLE CHANGES

If the Commission considers changes to the proposed regulations pursuant to Government Code section 11346.8, and the changes are sufficiently related to the original text and within the scope of this Notice, a full copy of the text will be available for review at least 15 days prior to the date on which the Commission adopts or amends the resulting regulations.

PUBLIC ADVISER

The Commission's Public Adviser's Office is available to assist any person who wishes to participate in this proceeding. For assistance from the Public Adviser's Office, please call (916) 654-4489 or toll-free in California at (800) 822-6228.

CONTACT PERSONS

Inquiries concerning all aspects of the amendment process, including the substance of the proposed regulations, should be directed to Jeff Wilson, Project Manager, at (916) 657-4774 or by e-mail at jewilson@energy.state.ca.us. Mr. Wilson's designated backup contact person is Tim Olson, who can be reached at (916) 654-4528.

INFORMATIVE DIGEST

In September, 2000, SB 1771 was enacted establishing the California Climate Action Registry to accept California and national reports on greenhouse gas emissions from companies with operations in California. The purposes of the Registry include enabling participating entities to voluntarily record greenhouse gas emissions in a consistent certified format and to ensure that sources in the State receive consideration for certified emissions results under any future State, federal, or international regulatory regime relating to greenhouse gas emissions. SB 527 (Stats. 2001, ch. 769 §§13 and 16). , enacted in October, 2001, clarified the roles and responsibilities of the Registry and the California Energy Commission (Commission).

SB 527 amended Health and Safety Code 42870 to require the Commission to, among other things, set forth a process for qualifying certifiers and technical assistance providers who wish to provide services to Climate Action Registry participants. On June 11, 2003, the Commission adopted an Order Instituting Rulemaking to consider the adoption of regulations to approve certifiers and technical assistance providers that wish to provide services to Climate Action Registry participants. The publication of this Notice of Proposed Action initiates the formal rulemaking process.

The objective of these regulations is to ensure that those firms approved as technical assistance providers, general certifiers, and industry-specific certifiers are competent to carry out the necessary functions of those positions.

Existing law requires the Commission to develop a process to approve organizations to provide technical assistance regarding, or certify, the greenhouse gas emissions of participants to the Climate Action Registry. (Health and Safety Code §42870.) These regulations would set forth the criteria and process for such approval.

Existing law requires the Commission to define the minimum technical and organizational capabilities and other qualifications approved firms are required to meet and to evaluate applicant organizations according to this list of qualification standards. These regulations set forth the minimum requirements that applicants must meet in order to be approved as a technical assistance provider, general certifier, or industry-specific certifier. Additionally, these regulations set forth the minimum informational requirements that must be contained in the applications for these positions.

Existing law requires the Commission to periodically update the list of approved technical assistance providers and certifiers by reviewing the capabilities of approved technical assistance providers and certifiers and recommending to the registry specific organizations to be added or removed from the approved lists. These regulations set forth the process by which new applications are reviewed and evaluated to determine if they meet the minimum qualifications for approval for these positions. They also set forth the process by which approved

organizations would be re-evaluated on a periodic basis to ensure that they maintain the minimum qualifications.

Existing law requires the Commission to accompany certifiers on scheduled visits on a random basis to observe and evaluate whether the participant has a program in place for the preparation and submittal of participant-reported emissions results consistent with registry-approved procedures and protocols and to evaluate the reasonableness of the emissions information being reported for a sample of estimates or calculations. These regulations would establish a process by which the Commission would accompany a certifier to a Registry participant's site in order to evaluate a participant's program for reporting emissions results to the Registry.

NO INCORPORATION BY REFERENCE

The proposed regulations would not incorporate any documents by reference.

SMALL BUSINESS IMPACTS

The Commission concludes that the proposed regulations would not affect small business. The proposed regulations would set forth a process by which firms could voluntarily apply to be certifiers or technical assistants to Registry participants. It would impose no additional requirements upon any small business that did not wish to become third-party certifiers or technical assistants. These regulations will benefit the entire state, including small business, by setting up a process by which firms can be qualified to certify greenhouse gas emissions in the event that these emissions may be regulated at a certain point.

LOCAL MANDATE DETERMINATION

If adopted, the proposed regulations would not impose a mandate on local agencies or school districts.

COST/SAVINGS ESTIMATE

There would be minor costs to one state agency – the California Energy Commission. It is estimated that implementation of these regulations would cost the Commission approximately \$25,000 per year. This cost is incurred mainly in reviewing applications for technical assistance providers and certifiers and in issuing conflict of interest determinations. The proposed regulations would not impose any costs that would be required to be reimbursed under Government Code section 17500 et seq. to any local agencies or school districts. There would be no other non-discretionary cost or savings imposed on local agencies and no cost or savings in federal funding to the state.

INITIAL DETERMINATION - ECONOMIC IMPACT ON BUSINESSES

The Commission hereby declares that it has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Commission and its staff are unaware of any legitimate cause and effect relationship between the proposed regulations and a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

This initial determination is based upon: (1) the fact that the proposed regulations would create a voluntary application process for those firms wishing to be qualified as certifiers or technical assistants under the California Climate Action Registry and would result in no additional burdens, duties, or costs upon those businesses not wishing to participate; and (2) the Commission and its staff are unaware of any legitimate cause and effect relationship between the proposed regulations and a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

There is the potential that these regulations would have a positive impact on business by creating new opportunities for approved firms to certify or provide technical assistance to Registry participants. It is estimated that these new opportunities could allow for as many as 100 certifications per year, at an average price of \$7,500, resulting in a yearly benefit of \$750,000 for approved firms.

POTENTIAL FOR ADVERSE IMPACTS ON BUSINESS AND INDIVIDUALS

The Commission's assessment is that the proposed regulations would have no potential for adverse economic impact on California business enterprises and individuals.

The Commission's further assessment is that the proposed actions would avoid the imposition of unnecessary or unreasonable regulations or reporting, record keeping, or compliance requirements.

The Commission's assessment is that the proposed regulations would have no negative effect on the creation or elimination of California jobs. There is the potential that these regulations, by providing the opportunity for approved firms to provide services to Registry participants, could possibly result in the creation of some jobs in this area. The proposed regulations would have no negative effect on the creation of new business or the elimination or expansion of existing business within California. There is the potential that these regulations, by providing the opportunity for approved firms to provide services to Registry participants, could possibly result in the expansion of existing business within California.

The proposed regulations would require no new reports.

CONSIDERATION OF ALTERNATIVE PROPOSALS

Before adopting the proposed regulations, the Commission must determine that no reasonable alternative considered by it, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. To date the Commission is not aware of any alternatives that would be more effective or less burdensome than the proposed regulations.

IMPACT ON HOUSING COSTS

If adopted, the proposed regulations would not have an effect on housing costs.

COST IMPACT ON PRIVATE PERSONS AND BUSINESSES

The Commission is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations. The approval program is voluntary and the regulations do not impose any cost on businesses not wishing to provide services to Climate Action Registry participants. If an organization does choose to participate, the costs of reasonable compliance with the proposed regulations would be insignificant; these costs would entail the initial cost of compiling the necessary information for the required application and the subsequent annual costs of reporting any changes to this information.

RELATIONSHIP TO FEDERAL REGULATIONS

There are no comparable federal regulations or statutes to the Commission's procedural requirements for qualifying certifiers and technical assistants in California. Furthermore, no federally mandated regulation or amendment is being proposed.

STATUTORY AUTHORITY AND REFERENCE

Authority: Sections 25213 and 25218(e), Public Resources Code; 42842 and 42870, Health and Safety Code.

Reference: Section 42870 Health and Safety Code.

CALIFORNIA ENERGY COMMISSION

Date: _____

_____/Signed/_____
WILLIAM J. KEESE
Chairman